

Application No.: 09/785,760  
RCE to FOA of 04/03/06

### Remarks

In the present RCE, three claims (4, 15, and 16) are amended; and four claims (28-31) are newly added. No new matter is entered. Claims 4-26 and 28-31 are presented for examination.

#### I. Claim Rejections: 35 USC § 112

Claims 1-14 and 15 are rejected under 35 USC 112, second paragraph, as being indefinite. In light of the amendments, Applicant respectfully argues that these rejections are moot.

#### II. Claim Rejections: 35 USC § 103

Claims 4 – 26 are rejected under 35 USC § 103 as being unpatentable over USPN 2001/0009005 (Goodin) in view of USPN 2002/0111892 (Sharp). This rejection is traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. For at least the following reasons, Applicant asserts that the rejection does not satisfy these criteria.

Sharp “relates to a marketplace for the buying and selling of freight transportation services” ([0004]). In other words, Sharp “enables freight transportation to be bought and sold through catalog rates and auctions” ([0006]). In short, Sharp teaches a site for auctioning shipping services, not goods.

By contrast, Goodin “is directed to a method of auctioning products on-line where participants use computer terminals to access a computer site and participate” ([0006]). In short, Goodin teaches a site for auctioning goods, not shipping services.

No suggestion or motivation exists to combine the teachings of Sharp and the teachings of Goodin into the same internet exchange portal. The Examiner is performing an improper piecemeal construction that uses hindsight to arrive at the claim elements. In

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